

ITEM #12:
CONSIDERATION OF A PROPOSED RESOLUTION TO ADOPT A DROUGHT-RELATED
EMERGENCY REGULATION REQUIRING ENHANCED WATER CONSERVATION AND
ADDITIONAL WATER USER INFORMATION FOR THE PROTECTION OF SPECIFIC
FISHERIES IN TRIBUTARIES TO THE RUSSIAN RIVER.

This change sheet, Change Sheet #2, supersedes and replaces Change Sheet #1.

Updates to Proposed Regulation:

On Page 1, first paragraph, change title and citations, as follows:

**Emergency Actions due to Insufficient Flow for Specific Fisheries in Tributaries
to the Russian River**

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In Title 23, Division 3, Chapter 2, ~~change name~~ amend the title of Article 24 and add
~~S~~section 876 to read:

On page 1 of the Draft Regulation, change section 876, subdivision (a) as follows:

(a) For the purposes of this section:

- ~~(1)~~ **“Diverters” means all those who divert or pump water from surface waters or from sub-surface waters that are hydraulically-connected to the surface stream within the watersheds identified in subdivision (c).**
- ~~(2)~~ **“Diversions” means all water diverted or pumped from surface waters or from sub-surface waters that are hydraulically-connected to the surface stream within the watersheds identified in subdivision (c).**
- ~~(3)~~ **All sub-surface water is considered hydraulically-connected to the surface stream if pumping that water may contribute to a reduction in stream stage or flow of any surface stream within the watersheds identified in subdivision (c).**
- ~~(1)~~~~(4)~~ **“Gray water” means all untreated rainwater collected in a runoff capture system or any water meeting the definition in Health and Safety Code section 17922.12.**
- ~~(2)~~~~(5)~~ **“Ornamental turf” means all turf other than turf used for community recreation by education facilities, recreation-related business, non-profit organizations, or recreational facilities, including but not limited to sports fields and playgrounds, that are generally accessible to the public.**
- ~~(3)~~~~(6)~~ **“Landscapes” includes all plantings besides ornamental turf, including but not limited to trees, annual plants, perennial plants, and edible plants, but does not include agricultural commodities meeting the definition of Government Code section 51201, subdivision (a).**

On page 2 of the Draft Regulation, change section 876, subdivision (c)(1)(A) as follows:

- (A) The portion of the Mark West Creek watershed as defined by the United States Geological Survey- Watershed Boundary Dataset- Hydrologic Unit Code 180101100706. Mark West Creek enters the Russian River from the south at river mile 31, along the northern border of Forestville. This portion of the Mark West Creek watershed spans approximately 4057 square miles.

On page 2 of the Draft Regulation, update section 876, subdivision (c)(2)(C), as follows:

- (C) On Green Valley Creek, the portion of the watershed upstream of the confluence with Atescadero Atascadero Creek as defined by the Latitude/Longitude of 38.44841°N and 122.88697°W.

On pages 2-3 of the Draft Regulation, change section 876, subdivision (d)(1) as follows:

- (d)(1) The use of potable and non-potable water sourced from areas identified in accordance with subdivision (d)~~(4)~~(3) is prohibited for any of the following actions, except where necessary to address an immediate health and safety need or where used exclusively for irrigation for commercial agricultural use meeting the definition of Government Code section 51201, subdivision (b):
 - (A) The application of water, except gray water, to ornamental turf;
 - (B) The application of water to landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;
 - (C) The application of water, except gray water, to landscapes more than two days per week;
 - (D) The application of water, except gray water, to landscapes between the hours of 8:00a.m. to 8:00p.m.;
 - (E) Washing motor vehicles, except with gray water or at car wash facilities where the water is part of a recirculating system;
 - (F) The application of water to driveways and sidewalks;
 - (G) The use of water, except gray water, to fill or refill decorative ponds, fountains and other decorative water features;
 - (H) The use of water, except gray water, in a fountain or other decorative water feature, except where the water is part of a recirculating system; and
 - (I) The application of water to landscapes during and within 48 hours after measurable rainfall.

On pages 3-4 of the Draft Regulation, delete section 876, subdivision (d)(2), renumber section 876, subdivisions (d)(3) through (d)(7), and amend references, as follows:

- ~~(2) To ensure no increase in water use or diversions that may harm endangered or threatened fish populations, the development of new surface or sub-surface diversions, is prohibited within the watersheds designated in subdivision (c). New winter diversions to offstream storage may be excepted from this prohibition with the prior approval of the Deputy Director for the Division of Water Rights (Deputy Director) or the Deputy Director's designee.~~

- ~~(2)(3)~~—To prevent the waste and unreasonable use of water and to promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily, if daily laundering is offered. The hotel or motel shall prominently display and/or communicate notice of this option to each guest using clear and easily understood language.
- ~~(3)(4)~~ The conservation measures identified in subdivisions ~~(d)(1) and (d)(2)~~ shall take effect immediately throughout **for all water users who receive water from diversions, whether surface or subsurface, sourced from within** the watersheds designated in subdivision (c)(2). The **Deputy Director for the Division of Water Rights** (Deputy Director), after consultation with the California Department of Fish and Wildlife (CDFW) or the National Marine Fisheries Service (NMFS), may extend those requirements to some or all of the remainder of each tributary watershed identified in subdivision (c) to support CCC steelhead and CCC coho salmon passage this migratory season. **The Deputy Director may, after consultation with CDFW or NMFS, lift the conservation measures identified in subdivisions (d)(1) and (d)(2) for all or any portion of the watersheds listed in subdivision (c), based on availability of sufficient streamflow in the tributaries to protect CCC coho salmon and CCC steelhead.**
- ~~(4)(5)~~ Subdivision (d) shall not place additional restrictions on a party who participates in a voluntary drought initiative program (program) determined by CDFW or NMFS to be at least equivalent to the conservation measures in subdivisions ~~(d)(1) and (d)(2)~~, so long as the party fully complies with the terms and conditions of the program. CDFW or NMFS must provide the Division of Water Rights with a copy of the program and a list of all parties included in the program to confirm participation. Participation in such a program shall not affect any other obligations to implement conservation practices, comply with informational orders, curtail diversions, or comply with other requirements or prohibitions not based on subdivision (d).
- ~~(5)(6)~~ The conservation measures required by subdivision (d) do not supersede or affect other conservation requirements for water suppliers, or individual end users.
- ~~(6)(7)~~ The taking of any action prohibited in subdivisions (d)(1) ~~or (d)(2)~~ or failure to take the action required by subdivision (d)~~(2)(3)~~ is an infraction, punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs. The fine for the infraction is in addition to, and does not supersede or limit, any other remedies, civil or criminal, including civil liability pursuant to Water Code section 1846.

On page 4 of the Draft Regulation, change section 876, subdivision (e) as follows:

- (e) Due to the known hydraulic connection between sub-surface water and surface streams in the Russian River watershed, as well as the limited water use information in the area, additional information on diversions, **whether surface or subsurface**, and use **of water** is needed to better assess impacts on surface stream flows. The Deputy Director may issue informational orders to some or all landowners in, or suppliers of water from, the watersheds identified in subdivision (c)(1), requiring them to provide additional information related to diversion and use of water, including but not limited to the: date of first use, location of diversion, type of diversion, types of beneficial uses, distance of well from the

nearest surface stream, depth of the well, well screen interval(s), place of use, estimated 2014 diversion amount, estimated 2014 use amount, source of water, volume of storage, estimated pumping/diversion rate, amount of water anticipated to be needed this year, or any other information relevant to forecasting use and impacts to the surface streams in the current drought year or in contingency planning for continuation of the existing drought emergency. Any party receiving an order under this subdivision shall provide the requested information within 30 days. The Deputy Director may grant additional time for the submission of information regarding diversion and use of water

On page 4 of the Draft Regulation, add new section 876, subdivision (f), as follows:

(f) New Diversions. For purposes of this subdivision, a new diversion means a surface or subsurface diversion initiated after issuance of a watershed-wide informational order to landowners in the watershed in which the new diversion is located. The owner of any new diversion must submit to the Deputy Director any information required by a watershed-wide informational order issued under subdivision (e) prior to commencement of the new diversion, unless the Deputy Director approves commencement of the diversion based on substantial compliance.

On page 4 of the Draft Regulation, change former subdivision (f) to subdivision (g), as follows:

(f)(g) The State Board has established an email distribution list that landowners or others may join to receive notices and updates regarding informational orders and conservation measures required per this section. Notice provided by email or by posting on the State Board's webpage shall be sufficient for all purposes related to notices and updates regarding the provisions of this section.

Updates to the Draft Resolution:

On page 4 of the Draft Resolution, change Paragraph 14 as follows:

14. Reducing water use in the Dutch Bill Creek, Green Valley Creek, Mark West Creek, and Mill Creek watersheds is **immediately** necessary to promote conservation, prevent waste and unreasonable use, address the drought emergency, and maintain summer ~~and fall~~-instream flow conditions needed to support CCC coho salmon and CCC steelhead viability, **and continued or further reductions in water use will be necessary to protect these species in fall, winter, and spring migrations, unless the drought emergency eases.**

The conservation measures constitute a reasonable immediate step to address critical needs of these species for survival, and, in combination with other ongoing and potential fishery protection measures in the watersheds, may prove to provide sufficient water for the duration of the rearing and migration seasons. If these conservation measures prove to be inadequate, additional measures may be needed, including possible curtailment of diversions in the watersheds;